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DEPARTMENT OF COMMERCE

International Trade Administration

A-570-831

Fresh Garlic from the People's Republic of China: Final Results and Final Rescission of the 20th Antidumping Duty Administrative Review; 2013-2014

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) published the *Preliminary Results* of the 20th administrative review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) on December 7, 2015.¹ We gave interested parties an opportunity to comment on the *Preliminary Results*. Based upon our analysis of the comments and information received, we made changes to the margin calculation for these final results regarding one of the mandatory respondents, Shenzhen Xinboda Industrial Co., Ltd. (Xinboda). We also continue to find that the other mandatory respondents, Hebei Golden Bird Trading Co., Ltd. (Golden Bird) and Qingdao Tiantaixing Foods Co., Ltd. (QTF), withheld requested information, significantly impeded this administrative review, and did not cooperate to the best of their abilities. Accordingly, pursuant to sections 776(a) and (b) of the Tariff Act of 1930, as amended (the Act), we continue to use adverse facts available (AFA) and find that neither Golden Bird nor QTF is eligible for separate rate status and thus, both companies are part of the

¹ See *Fresh Garlic From the People's Republic of China: Preliminary Results, Preliminary Intent To Rescind, and Partial Rescission of the 20th Antidumping Duty Administrative Review; 2013-2014*, 80 FR 75972 (December 7, 2015) (*Preliminary Results*) and accompanying Issues and Decision Memorandum (PDM).

PRC-wide entity. The final dumping margins are listed below in the “Final Results of Administrative Review” section of this notice. The period of review (POR) is November 1, 2013, through October 31, 2014.

DATES: Effective Date: (Insert date of publication in the *Federal Register*).

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith, AD/CVD Operations, or Thomas Gilgunn, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone 202-482-5255 or 202-482-4236, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Results* on December 7, 2015.² As explained in the memorandum from the Acting Assistant Secretary for Enforcement and Compliance, the Department has exercised its discretion to toll all administrative deadlines due to the recent closure of the Federal Government. All deadlines in this segment of the proceeding have been extended by four business days. The revised deadline for the final results of this review was April 11, 2016.³ On April 4, 2016, the Department extended the deadline in this proceeding by 30 days to May 11, 2016.⁴ On May 4, 2016, the Department extended the deadline in this proceeding by another 30 days to June 10, 2016.⁵

² See *Preliminary Results*.

³ See Memorandum to the Record from Ron Lorentzen, Acting A/S for Enforcement & Compliance, regarding “Tolling of Administrative Deadlines As a Result of the Government Closure During Snowstorm Jonas,” (January 27, 2016).

⁴ See Memorandum to Christian Marsh, “Fresh Garlic from the People’s Republic of China: Extension of Deadline for Final Results of the Antidumping Duty Administrative Review,” (April 4, 2016).

⁵ See Memorandum to Christian Marsh, “Fresh Garlic from the People’s Republic of China: Extension of Deadline for Final Results of the Antidumping Duty Administrative Review,” (May 4, 2016).

In accordance with 19 CFR 351.309, we invited parties to comment on our *Preliminary Results*. QTF, Petitioners and Xinboda all submitted timely-filed case briefs, pursuant to our regulations.⁶ Additionally, Petitioners and Xinboda submitted timely-filed rebuttal briefs.⁷ Finally, on March 3, 2016, the Department held a public hearing where counsel for QTF, Xinboda and Petitioners presented arguments in their case and rebuttal briefs.

Scope of the Order

The merchandise covered by the order includes all grades of garlic, whole or separated into constituent cloves. Fresh garlic that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) 0703.20.0000, 0703.20.0005, 0703.20.0010, 0703.20.0015, 0703.20.0020, 0703.20.0090, 0710.80.7060, 0710.80.9750, 0711.90.6000, 0711.90.6500, 2005.90.9500, 2005.90.9700, 2005.99.9700. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive. For a full description of the scope of this order, please see “Scope of the Order” in the accompanying Issues and Decision Memorandum.⁸

Partial Rescission of Administrative Review

In the *Preliminary Results*, we stated our intention to preliminarily rescind this administrative review with respect to Jinxiang Kaihua Imp & Exp Co. Ltd. (Kaihua), because we

⁶ See Case Brief filed by Qingdao Tiantaixing Foods Co., Ltd. (QTF Case Brief) (January 11, 2016); Petitioners’ Case Brief (January 15, 2016); Letter from Shenzhen Xinboda Industrial Co., Ltd. (“Xinboda”) “Fresh Garlic from the People’s Republic of China – Case Brief,” (January 19, 2016) (Xinboda’s Case Brief).

⁷ See Letter from Shenzhen Xinboda Industrial Co., Ltd. (“Xinboda”) “Fresh Garlic from the People’s Republic of China – Xinboda Rebuttal Brief,” (February 2, 2016) (Xinboda’s Rebuttal Brief); see also Petitioners’ Rebuttal Brief (February 2, 2016).

⁸ See Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, “Issues and Decision Memorandum for the Final Results of Antidumping Duty Administrative Review: Fresh Garlic from the People’s Republic of China; 2013-2014,” dated concurrently with this notice (I&D Memo).

found its POR sales to not be *bona fide* in the concurrent new shipper review.⁹ We received no comments on our intent to rescind the review of Kaihua for the *Final Results*. Therefore, we are rescinding this administrative review with respect to Kaihua.

Analysis of Comments Received

We addressed all issues raised in the case and rebuttal briefs by parties in this review in the I&D Memo. Appendix I provides a list of the issues which parties raised. The I&D Memo is a public document and is on file in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building, as well as electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov> and in the CRU. In addition, a complete version of the I&D Memo can be accessed directly on the internet at <http://enforcement.trade.gov/frn/index.html>. The signed I&D Memo and the electronic versions of the I&D Memo are identical in content.

Changes since the *Preliminary Results*

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, and for the reasons explained in the I&D Memo, we revised the margin calculation for Xinboda. Accordingly, for the *Final Results*, the Department has also updated the margin to be assigned to companies eligible for a separate rate but not selected for individual examination; this margin is the same as Xinboda's margin. The Calculation Memo for Xinboda's *Final Results* and the Surrogate Values Memo contain further explanation of our

⁹ See *Fresh Garlic From the People's Republic of China: Final Rescission of the Semiannual Antidumping Duty New Shipper Review of Jinxiang Kaihua Imp & Exp Co., Ltd.*, 80 FR 60881 (October 8, 2015).

changes to Xinboda's factors of production.¹⁰ For a list of all issues addressed in these *Final Results*, please refer to Appendix I accompanying this notice.

Final Determination of No Shipments

In the *Preliminary Results*, the Department preliminarily determined that the companies listed in Appendix III timely filed "no shipment" certifications and did not have any reviewable transactions during the POR. Consistent with the Department's assessment practice in non-market economy (NME) cases, we completed the review with respect to the companies listed in Appendix III. Based on the certifications submitted by the aforementioned companies, and the fact that CBP provided no evidence to contradict the claims by the aforementioned companies of no shipments, we continue to determine that these companies did not have any reviewable transactions during the POR. As noted in the "Assessment Rates" section below, the Department intends to issue appropriate instructions to CBP for the companies listed below based on the final results of this review.

PRC-Wide Entity

As discussed in the *Preliminary Results*, the Department preliminarily determined 38 companies to be part of the PRC-wide entity.¹¹ In addition to the two mandatory respondents which failed to cooperate to the best of their ability to comply with the Department's requests for information, there were 36 companies for which a review was requested, and not withdrawn,

¹⁰ See Memorandum to the File, through Thomas Gilgunn Program Manager, Office VII, Enforcement and Compliance, from Jacqueline Arrowsmith, International Trade Analyst, Office VII, Enforcement and Compliance, regarding 20th Antidumping Administrative Review of Fresh Garlic from the People's Republic of China: Calculation Memorandum for the Final Results of Shenzhen Xinboda Industrial Co., Ltd., dated concurrently with and hereby adopted by this notice ("Calculation Memo for Xinboda's Final Results") and Memorandum to the File, through Thomas Gilgunn Program Manager, Office VII, Enforcement and Compliance, from Jacqueline Arrowsmith, International Trade Analyst, Office VII, Enforcement and Compliance, regarding 20th Antidumping Administrative Review of Fresh Garlic from the People's Republic of China: Surrogate Values for the Final Results, dated concurrently with and hereby adopted by this notice ("Surrogate Values Memo").

¹¹ *Id.*, at 72626.

which did not file a separate rate application or certification, and did not file a no shipments certification. Accordingly, the Department determined that these companies are part of the PRC-wide entity.

As discussed in detail in the I&D Memo, the Department continues to find Golden Bird and QTF to be part of the PRC-wide entity. QTF commented on our preliminary decision that it is part of the PRC-wide entity, and we have addressed QTF's comments in the I&D Memo.

Thus, for these final results, the Department continues to find all 38 companies to be part of the PRC-wide entity. A full list of companies determined to be part of the PRC-wide entity can be found in Appendix II.

Separate Rates

In the *Preliminary Results*, the Department found that non-selected companies Jinan Farmlady Trading Co., Ltd., Jining Maycarrier Import & Export Co, Ltd., Jining Shunchang Import & Export Co., Ltd., Jinxiang Feiteng Import & Export Co., Ltd., Jinxiang Guiha Food Co., Ltd., Jinxiang Hejia Co., Ltd., Jining Yongjia Trade Co., Ltd., Shenzhen Yuting Foodstuff Co., Ltd., Jining Shengtai Vegetables & Fruits Co., Ltd., Shenzhen Bainong Co., Ltd., Weifang Hongqiao International Logistics Co., Ltd., and Yantai Jinyan Trading Inc. demonstrated their eligibility for a separate rate.¹² No party has placed any evidence on the record of this review to contradict that finding. Therefore, we continue to find that these companies are eligible for a separate rate.

The separate rate for non-selected companies is normally the amount equal to the weighted average of the calculated weighted-average dumping margins established for mandatory respondents, excluding any zero and *de minimis* margins, and any margins

¹² See *Preliminary Results*.

determined entirely on adverse facts available.¹³ Here, the only individually-examined respondent for which the Department has determined a weighted-average margin is Xinboda. As that margin is not zero, *de minimis*, or based entirely on facts available, the Department determines that Xinboda's rate will be assigned to the non-selected separate rate recipients.

Final Results of Administrative Review

The weighted-average dumping margins for the administrative review are as follows:

Exporter	Weighted-Average Margin (dollars per kilogram)
Shenzhen Xinboda Industrial Co., Ltd.	\$2.75
Jinan Farmlady Trading Co., Ltd.	\$2.75
Jining Maycarrier Import & Export Co., Ltd.	\$2.75
Jining Shunchang Import & Export Co., Ltd.	\$2.75
Jinxiang Feiteng Import & Export Co., Ltd.	\$2.75
Jinxiang Guihua Food Co., Ltd.	\$2.75
Jinxiang Hejia Co., Ltd.	\$2.75
Jining Yongjia Trade Co., Ltd.	\$2.75
Shenzhen Yuting Foodstuff Co., Ltd.	\$2.75
Jining Shengtai Vegetables & Fruits Co., Ltd.	\$2.75
Shenzhen Bainong Co., Ltd.	\$2.75
Weifang Hongqiao International Logistics Co., Ltd.	\$2.75
Yantai Jinyan Trading Inc.	\$2.75
PRC-Wide Rate	\$4.71

¹³ Neither the Act nor the Department's regulations address the establishment of the rate applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777A(c)(2) of the Act. The Department's practice in cases involving limited selection based on exporters accounting for the largest volumes of exports has been to look to section 735(c)(5) of the Act for guidance, which provides instructions for calculating the all-others rate in an investigation.

In addition, the Department continues to find that the companies identified in Appendix II are part of the PRC-wide entity.

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act, and 19 CFR 351.212(b), the Department has determined, and U.S. Customs and Border Protection (CBP) shall assess antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

Where the respondent reported reliable entered values, we calculated importer- (or customer-) specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer).¹⁴ Where the Department calculated a weighted-average dumping margin by dividing the total amount of dumping for reviewed sales to that party by the total sales quantity associated with those transactions, the Department will direct CBP to assess importer-specific assessment rates based on the resulting per-unit rates.¹⁵ Where an importer- (or customer-) specific *ad valorem* or per-unit rate is greater than *de minimis*, the Department will instruct CBP to collect the appropriate duties at the time of liquidation.¹⁶ Where an importer- (or customer-) specific *ad valorem* or per-unit rate is zero or *de minimis*, the Department will instruct CBP to liquidate appropriate entries without regard to antidumping duties.¹⁷ We intend to instruct CBP to liquidate entries containing subject merchandise exported by the PRC-wide entity at the PRC-wide rate.

¹⁴ See 19 CFR 351.212(b)(1).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ See 19 CFR 351.106(c)(2).

Pursuant to the Department's assessment practice, for entries that were not reported in the U.S. sales databases submitted by companies individually examined during this review, the Department will instruct CBP to liquidate such entries at the PRC-wide entity rate. Additionally, if the Department determines that an exporter had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide entity rate.¹⁸

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporter listed above, the cash deposit rate will be the rate established in the final results of review (except, if the rate is zero or *de minimis*, *i.e.*, less than 0.5 percent, a zero cash deposit rate will be required for that company); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of \$4.71 per kilogram; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. The deposit requirements shall remain in effect until further notice.

¹⁸ See *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

Disclosure

We intend to disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these final results of administrative review in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: June 10, 2016.

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

Appendix I – Issues and Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Discussion of the Issues

- Comment 1: Whether the Department's Selection of Romania as the Surrogate Country was Appropriate
- Comment 2: The Department's Rejection of Mexico as a Surrogate Country Violated the Department's New Factual Information Regulations and Was Not in Accordance with Law
- Comment 3: Whether QTF Cooperated to the Best of Its Ability in this Review
- Comment 4: Accounting for Storage and Transportation Factors for Input Garlic Bulbs Consumed by Excelink
- Comment 5: The Department Should Adjust the Weight Denominator for Brokerage and Handling and Trucking and Remove Letter of Credit Expense
- Comment 6: Modifying Preliminary Analysis to Account for Water Consumed in Producing Fresh Peeled-Clove Garlic

- V. Conclusion

Appendix II

List of Companies under Review Subject to the PRC-Wide Rate

1. Anqiu Friend Food Co., Ltd.
2. Dalian New Century Food Co., Ltd.
3. Foshan Fuyi Food Co, Ltd.
4. Goodwave Technology Development Ltd.
5. Guangxi Lin Si Fu Bang Trade Co., Ltd.
6. Hebei Golden Bird Trading Co., Ltd.
7. Hejiahuan (Zhongshan) Electrical AP
8. Henan Weite Industrial Co., Ltd.
9. Heze Ever-Best International Trade Co., Ltd. (f/k/a Shandong Heze International Trade and Developing Company)
10. Jining Trans-High Trading Co., Ltd.
11. Jinxiang Dongyun Freezing Storage Co., Ltd. (a/k/a Jinxiang Eastward Shipping Import and Export Limited Company)
12. Jinxiang Dongyun Import & Export Co., Ltd.
13. Jinxiang Grand Agricultural Co., Ltd.
14. Jinxiang Infarm Fruits & Vegetables Co., Ltd.
15. Jinxiang Meihua Garlic Produce Co., Ltd.
16. Jinxiang Shanyang Freezing Storage Co., Ltd.
17. Jinxiang Tianma Freezing Storage Co., Ltd.
18. Jinxiang Xian Baishite Trade Co., Ltd. (a/ k/a Jinxiang Best Trade Co., Ltd.)
19. Juye Homestead Fruits and Vegetables Co., Ltd.
20. Laiwu Jiahe Fruit and Vegetable Co., Ltd.
21. Qingdao Everfresh Trading Co., Ltd.
22. Qingdao Tiantaixing Foods Co., Ltd.
23. Shandong Longtai Fruits and Vegetables Co., Ltd.
24. Shanghai Ever Rich Trade Company
25. Shanghai LJ International Trading Co., Ltd.
26. Shenzhen Xunong Trade Co., Ltd.
27. Sunny Import & Export Limited
28. Tangerine International Trading Co.
29. Weifang Chenglong Import & Export Co., Ltd.
30. Weifang He Lu Food Import & Export Co., Ltd.
31. Weifang Naiké Foodstuffs Co., Ltd.
32. Weifang Shennong Foodstuff Co., Ltd.
33. XuZhou Heiners Agricultural Co., Ltd.
34. Zhengzhou Dadi Garlic Industry Co., Ltd.
35. Zhengzhou Huachao Industrial Co., Ltd.
36. Zhengzhou Xuri Import & Export Co., Ltd.
37. Zhengzhou Yuanli Trading Co., Ltd.
38. Zhong Lian Farming Product (Qingdao) Co., Ltd.

Appendix III

Companies That Have Certified No Shipments

1. Jining Yifa Garlic Produce Co., Ltd.
2. Jinxiang Richfar Fruits & Vegetables Co., Ltd.
3. Jinxiang Yuanxin Import & Export Co., Ltd.
4. Landling Qingshui Vegetable Foods Co., Ltd.
5. Qingdao Lianghe International Trade Co., Ltd.
6. Qingdao Sea-line International Trading Co.
7. Qingdao Xiangtiangfeng Foods Co., Ltd.
8. Shandong Chenhe International Tradeing Co., Ltd.
9. Shandong Jinxiang Zhengyang Import & Export Co., Ltd.
10. Shijazhuang Goodman Trading Co., Ltd.

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